

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

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NICHOLAS EURE

v.

THOMAS R. CORCORAN, ET AL.

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Civil No. JFM-02-3691

MEMORANDUM

Plaintiff alleges that he was stabbed with a knife by an unidentified assailant while incarcerated at the Maryland House of Corrections. He has instituted this action under 42 U.S.C. §1983. Defendants have filed a motion to dismiss or for summary judgment. Plaintiff, who is represented by counsel, has responded to the motion.

Defendants' motion will be granted. In order to establish a "failure to protect" claim such as the one asserted by plaintiff here, an inmate must demonstrate that a defendant "knows of and disregards an excessive risk to inmate health or safety; the official must be both aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw that inference." *Farmer v. Brennan*, 511 U.S. 825, 837 (1994). It is not enough that a plaintiff allege or prove that the defendant should have known of a substantial risk of serious harm and ignored that risk. *Id.* at 838.

Here, plaintiff's claim is based entirely upon the allegation that he was stabbed on a Sunday and the correctional officers failed to monitor the area where the incident occurred on that day although they did so on other days of the week. At most, this allegation is one of negligence that is not actionable under Section 1983. *See generally, Daniels v. Williams*, 474 U.S. 327 (1986). Plaintiff does not allege that any of the defendants knew that a particular inmate presented a specific threat to plaintiff and, despite that knowledge, failed to take steps to

protect him. It is such an allegation, or its functional equivalent, that it is necessary to meet the *Farmer* standard. See, e.g., *Pressly v. Hutto*, 816 F.2d 977, 979 (4th Cir. 1987); *Farmer*, 511 U.S. at 842-43.<sup>1</sup>

A separate order granting defendants' motion and entering judgment on their behalf is being entered herewith.

Date: July 1, 2004

/s/  
J. Frederick Motz  
United States District Judge

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<sup>1</sup>In light of *Farmer*, defendants are also entitled to the defense of qualified immunity. Moreover, several of them have another sound defense based upon the fact that they were not personally involved in the incident complained of.

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ORDER

For the reasons stated in the accompanying memorandum, it is, this 1st day of July 2004

ORDERED

1. Defendants' motion to dismiss or for summary judgment is treated as one for summary judgment and, as such, is granted; and

2. Judgment is entered in favor of defendants against plaintiff.

/s/

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J. Frederick Motz  
United States District Judge